

IN THE MATTER OF

: BEFORE THE

**MILLER BROTHERS  
PROPERTIES**

: HOWARD COUNTY

: BOARD OF APPEALS

Petitioner

: HEARING EXAMINER

Request to Modify Board of Appeals Decision and  
Order 07-006S to Correct a Clerical Error

.....

**ORDER**

In Board of Appeals Case No. BA07-006S, the Hearing Examiner granted the Applicant's petition for a variance to erect a 23.6-foot high by 8.54-foot wide, 145.44 square-foot, freestanding, internally illuminated, pole identification sign with a 5.5-foot right-of-way setback rather than the 145.44-square foot setback required in relation to the total sign area and the 27-foot setback required in relation to the sign height, in a B-2 (Business: General) Zoning District, pursuant to Section 3.501.C of Subtitle 5 of Title 3 of the Howard County Code (the "Sign Code"). The subject property was 8528 Baltimore National Pike (US 40), which is located in the 2nd Election District at the intersection of westbound US 40 and Normandy Center Drive.

By letter dated March 17, 2008, the Applicant, through its attorney Marvin I. Singer, is requesting an Order correcting the approved sign's total square footage. As ground for the correction, the Applicant states a technical error caused the sign's square footage to be misstated. The correct square footage for the total sign area is 156.90-square feet, rather than the 145.44-square foot area stated on the variance petition.

The Howard County Hearing Examiner Rules of Procedure contain no express rule or mechanism for correcting an unintended technical error. However, Section 2.212(c) of the Howard County Board of Appeals Rules of Procedure permit any party on its own initiative or motion to petition the Board to modify its decision in order to correct a clerical error. I therefore

conclude the Hearing Examiner Rules of Procedure imply the authority to correct a technical error in a Hearing Examiner Decision and Order when the error is unintended, as it is here.

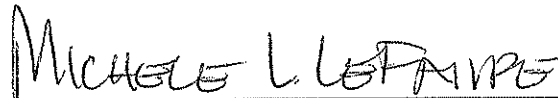
Based upon the foregoing, it is this 19<sup>th</sup> Day of March 2008 **ORDERED:**

That the Order in Board of Appeals Case Bo. 007-006S granting Miller Brothers Properties a variance from the requirements of the Sign Ordinance is **CORRECTED** as follows.

The Board of Appeals Decision and Order in Case No. BA 07-006S is hereby corrected to grant approval for a 156.90-square foot, freestanding, internally illuminated, pole identification sign with a 5.5-foot right-of-way setback;

**Provided, however,** that the variance shall apply only to the uses and structures as described in the petition and plan submitted, and not to any other activities, uses, structures, or additions on the Property.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**



Michele L. LeFaivre

Date Mailed: 3/25/08

**Notice:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.